IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22/03/2004

CORAM

THE HON'BLE MR. JUSTICE P.D.DINAKARAN

W.P.No.20593 of 1998

A. Sowri Muthammal,
24, Puram Prakasam Road,
rep. by her Power Agent
M.Chandru,
No.T.77A, 29th Cross Street,
Besant Nagar,
Chennai 600 090. .....Petitioner

-Vs-

1. The Member Secretary
Chennai Metropolitan
Development Authority
No.8, Gandhi Irwin Road,
Chennai 600 008.

2. The Chairman cum Managing
Director,
Chennai Metro Water &
Sewerege Board,
Chennai 600 002. ......Respondents

Writ Petition, under Article 226 of the Constitution of India,
praying for issuance of a Writ of Certiorarified Mandamus, as stated therein.

For Petitioner :: Mr. S. Sundaresan

For Respondents:: Mr. V. Perumal for R-1
Mr. V.N.Mohan Raj for R-2

:O R D E R

By proceedings dated 15.12.1998, the first respondent herein
demanded a sum of Rs.1,18,000/- from the petitioner towards Metro Water
Infrastructure Improvement Charge.

2. Alleging that the demand of the first respondent is
without jurisdiction, the petitioner has preferred the above writ petition for
issuance of a Writ of Certiorarified Mandamus to call for the records of the
first respondent dated 15.12.1998 and to quash the same and to direct the

first respondent to release the planning permission approval to the petitioner.

3. Under similar circumstances, P.SATHASIVAM,J., by an order dated 05.09.2003 in W.P.No.24827 of 2002 finding that the Member Secretary of the Chennai Metropolitan Development Authority has got jurisdiction to demand infrastructure development charges by exercising the powers conferred under Section 6(2) of The Chennai Metropolitan Water Supply and Sewerage Act, 1978, (in brevity "the Act") held that if any person is aggrieved of the amendment made to Section 6(2) of the Act, it is for them to challenge the same in the manner known to law and refused to interfere with the demand of the respondent.

4. That apart, learned counsel appearing for the respondents brought to my notice that under Section 6(2) of the Act read with G.O.Ms. No.446 Housing and Urban Development (UDI) Department dated 02.06.1998, the

respondents have got the power to raise the impugned demand from the petitioner. The relevant paragraph in G.O.Ms.No.446 dated 02.06.1998 is as follows:-

"4. The Government after careful consideration have decided to accept the request of the Vice Chairman, Chennai Metropolitan Development Authority to modify the instructions already issued by the Government in their letter dated 31.12.1992 first read above. They accordingly direct that in modification of the instructions referred to in paragraph 1 above, planning permission for the construction of multi storeyed buildings be considered by Chennai Metropolitan Development Authority after following the procedure suggested by Chennai Metropolitan Water Supply and Sewerage Board for collection of a flat rate of Rs.64/- per sq.m. from the applicants towards infrastructure development charges and pass on the same to Chennai Metropolitan Water Supply and Sewerage Board without referring the individual cases to the Chennai Metropolitan Water Supply and Sewerage Board, prior to placing the proposals before multi storeyed Building panel. The collection of such charges for Special Buildings will have to wait till the Chennai Metropolitan Water Supply and Sewerage Board Act is amended."

5. In view of the above, I do not find any reason to interfere with the impugned order of the first respondent. Hence, the writ petition is dismissed, but, without prejudice to the rights of the petitioner to challenge Section 6(2) of the Act, if he is so advised. No costs.

Dpn/-

To:

1. The Member Secretary
Chennai Metropolitan
Development Authority
No.8, Gandhi Irwin Road,
Chennai 600 008.

2. The Chairman cum Managing
Director,
Chennai Metro Water &
Sewerege Board,
Chennai 600 002.